

Article 3.

Writ.

§ 17-9. Writ granted without delay.

Any court or judge empowered to grant the writ, to whom such applications may be presented, shall grant the writ without delay, unless it appear from the application itself or from the documents annexed that the person applying or for whose benefit it is intended is, by this Chapter, prohibited from prosecuting the writ. (1868-9, c. 116, s. 6; Code, s. 1628; Rev., s. 1827; C.S., s. 2211.)

§ 17-10. Penalty for refusal to grant.

If any judge authorized by this Chapter to grant writs of habeas corpus refuses to grant such writ when legally applied for, every such judge shall forfeit to the party aggrieved two thousand five hundred dollars (\$2,500). (1868-9, c. 116, s. 9; Code, s. 1631; Rev., s. 1828; C.S., s. 2212.)

§ 17-11. Sufficiency of writ; defects of form immaterial.

No writ of habeas corpus shall be disobeyed on account of any defect of form. It shall be sufficient –

- (1) If the person having the custody of the party imprisoned or restrained be designated either by his name of office, if he have any, or by his own name, or, if both such names be unknown or uncertain, he may be described by an assumed appellation, and anyone who may be served with the writ shall be deemed the person to whom it is directed, although it may be directed to him by a wrong name, or description, or to another person.
- (2) If the person who is directed to be produced be designated by name, or if his name be uncertain or unknown, he may be described by an assumed appellation or in any other way, so as to designate the person intended. (1868-9, c. 116, ss. 7, 8; Code, ss. 1629, 1630; Rev., s. 1829; C.S., s. 2213.)

§ 17-12. Service of writ.

The writ of habeas corpus may be served by any qualified elector of this State thereto authorized by the court or judge allowing the same. It may be served by delivering the writ, or a copy thereof, to the person to whom it is directed; or, if such person cannot be found, by leaving it, or a copy, at the jail, or other place in which the party for whose relief it is intended is confined, with some under officer or other person of proper age; or, if none such can be found, or if the person attempting to serve the writ be refused admittance, by affixing a copy thereof in some conspicuous place on the outside, either of the dwelling house of the party to whom the writ is directed or of the place where the party is confined for whose relief it is sued out. (1868-9, c. 116, s. 32; Code, s. 1657; Rev., s. 1833; C.S., s. 2214.)